

IN THE UNITED STATES DISTRICT COURT
WESTERN DIVISION OF TEXAS
DEL RIO DIVISION

MIGUEL ANGEL GUERRA

v.

BOUN-3-TRUCKING, INC. AND
SAYSITHIDETH KOMONH

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CA NO. 1:19-cv-00654

DEFENDANTS SAYSITHIDETH KOMONH'S
NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants BOUN-3 TRUCKING, INC. AND SAYSITHIDETH KOMONH, hereby remove this action from the 365TH Judicial District Court of Maverick County, Texas to the United States District Court for the Western District of Texas, Del Rio Division as provided by 28 U.S.C. §1332, §1441, and §1446. Defendants files this Notice of Removal based on the grounds that: (1) there is complete diversity of the parties; and (2) the amount in controversy exceeds \$75,000.

I. INTRODUCTION

1. Plaintiff filed his Original Petition in the 365th District Court of Maverick County. A copy of the Original Petition is attached. **(Exhibit A)**. Diversity jurisdiction exists between Plaintiff Guerra and Defendants BOUN-3-TRUCKING, INC. AND/OR SAYSITHIDETH KOMONH because the dispute involves an action in which the Plaintiff, an individual residing in Texas, has sued Defendant BOUN-3-TRUCKING, INC., a Utah corporation, and SAYSITHIDETH KOMONH, none of whom reside in Texas. Additionally, the case may be removed to Federal Court because the Plaintiff's claimed damages exceeds \$75,000. **(Exhibit A)**.

BASIS FOR REMOVAL

2. This court has original subject matter jurisdiction under 28 U.S.C. §1332(a) because there is complete diversity between the parties as properly configured and understood, and the amount in controversy exceeds \$75,000.

3. According to his Original Petition, the Plaintiff is a citizen of Texas who resided in Maverick County, Texas, at the time of the incident, which is the subject of this lawsuit.

4. Defendant Saysithideth Komonh is the proper name of the Defendant. Komonh is a truck driver *who transports goods in the State of Texas for Boun-3 Trucking, Inc.* and whom was involved in an automobile accident with the Plaintiff in Eagle Pass, Maverick County, Texas. (***Exhibit B***- collision report). Plaintiff has brought suit against a corporation that is not a Texas registered corporation (***Exhibit C*** - Utah SOS documents) and Komonh who is not a resident of the State of Texas (*see Exhibit B for KOMONH Utah license*) for alleged damages resulting from the subject collision. BOUN-3 TRUCKING, INC. is incorporated in the State of Utah and not the State of Texas and SAYSITHIDETH KOMONH is a resident of the State of Utah, and complete diversity exists between the parties.

5. Plaintiff requests damages in his Petition over \$1,000,000.00. That places the amount in controversy above the minimum jurisdictional amount required by 28 U.S.C. §1332(b) (Exhibit A). The Plaintiff has alleged negligence, negligence per se, negligent entrustment, personal injury damages, and seeks general damages including pre-judgment interest, post-judgment interest and costs of court. While Defendant denies that Plaintiff is entitled to any damages at all, it is facially apparent that the Plaintiff is attempting to state a claim for damages in excess of \$75,000.00, exclusive of interest and costs. *See, e.g., Lewis v. State Farm Lloyds*, 205 F.2d 706, 708 (S.D. Tex. 2002)(“the removing party satisfies this burden [approving the

jurisdictional amount in controversy] if the court finds it is facially apparent that the Plaintiff's claimed damages likely exceed \$75,000").

THE NOTICE OF REMOVAL IS TIMELY

6. This Notice of Removal is timely because SAYSITHIDETH KOMONH has removed this case within thirty (30) days of the receipt of Plaintiff's Petition as provided by 28 U.S.C. §1332(a). Komonh was served on June 4, 2019.

THE NOTICE OF REMOVAL IS PROCEDURALLY CORRECT

7. Defendant/s attach to this Notice all pleadings, process, orders, and all other filings in the state court action as required by 28 U.S.C. §1446(a). These documents are included in (**Exhibit D**)

8. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the county in which the removed action has been pending.


9. Defendant/s is filing a copy of this Notice of Removal with the clerk with the state court in which the action has been pending. (See attached **Exhibit D**)

10. For these reasons, Defendant removes this case to the United States District Court for the Western District of Texas, Del Rio Division, and asks this Court to retain jurisdiction over this case. Defendant further prays for all necessary writs to bring before this court all records and proceedings in the 365TH Judicial District Court of Maverick County, Texas, and for such other and further special and general relief to which it may be entitled to received.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
SAYSITHIDETH KOMONH

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing has been sent by electronic filing, or first class U.S. Mail, or by certified mail, return receipt requested, or by facsimile, or by hand delivery, to the attorney listed below, in accordance with the Federal Rules of Civil Procedure on this 26th day of June, 2019.

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